

Supreme Court will hear air pollution case

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WASHINGTON -- The Supreme Court said Monday it would consider a landmark air pollution case that tests a Clinton administration strategy of using courts to pursue coal-burning power companies.

Justices next fall will take up a lower court decision that said power plants do not have to get permission to release more pollutants into the air when they modernize to operate for longer hours.

The Bush administration opposed the decision by the 4th U.S. Circuit Court of Appeals, but in an odd move asked justices not to overturn it.

Solicitor General Paul Clement said the Environmental Protection Agency has responded to the ruling with new regulations.

Those proposed rules, announced last fall, have been criticized by environmental groups as pandering to the industry at the expense of Americans' health.

Environmental Protection Agency leaders contend they will prompt greater technology innovation.

Former President Clinton had used a Clean Air Act program to bring suits against 51 aging, coal-burning power plants.

Duke Energy Corp., based in Charlotte, N.C., was sued over improvements made at eight power plants in North Carolina and South Carolina. The appeals court said that although the plants would operate more hours and pollute more each year, the hourly rate of emissions wouldn't increase.

Among the biggest pollutants from coal-burning power plants are nitrogen oxides and sulfur dioxide, blamed for smog, acid rain and soot and other

fine particles that lodge in people's lungs and cause asthma and other respiratory ailments.

Thirteen states backed environmental groups in urging the Supreme Court to intervene: California, Connecticut, Delaware, Illinois, Maine, Maryland, Massachusetts, Minnesota, New Hampshire, New Jersey, New York, Oklahoma, and Vermont.

The case is Environmental Defense v. Duke Energy Corp., 05-848.

On the Net:

Environmental Protection Agency: <http://www.epa.gov/nsr>

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